

REMARKS

This communication responds to the Office Action of December 24, 2009, in which claims 20-28 were rejected under 35 U.S.C. § 103(a).

In this communication, claims 20 and 24 have been amended and claims 25-26 have been cancelled. Support for the amendments to claim 20 may be found in at least paragraphs [0008], [0018], [0023]-[0024], [0066], [0073]-[0074], and claims 5, 16, and 19 of the present application, as filed.

In view of the amendments and the following remarks, reconsideration and allowance are respectfully requested.

Interview Summary

The May 5, 2010, interview between Examiner Lamprecht and Applicants' representatives, Stuart Hemphill and Adam Bramwell is appreciated. During the interview, claim 20 of the present application and U.S. Pat. Nos. 6,205,354, 7,088,233, and 6,415,265 were discussed. While formal agreement was not reached, pursuant to the interview and a follow-up call with Examiner Lamprecht on May 20, 2010, it is Applicants' understanding that the claims of the present application, amended as shown in this paper, are patentable over the art of record. Applicants believe all outstanding issues were resolved in the interview. However, the Examiner is invited to contact the undersigned or Adam Bramwell (612-492-6692) if any issues remain.

Claim Rejections Under 35 U.S.C. §103

Claims 20-28 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Pat. No. 6,205,354 (Gellerman) in view of U.S. Pat. No. 7,088,233 (Menard) and further in view of U.S. Pat. No. 6,415,265 (Shell).

Independent Claim 20 is Not Obvious Over Gellerman in View of Menard and Shell

Claim 20, as amended, is directed to an apparatus comprising, in part, "a compensation system configured to upload directly data corresponding to use of the testing devices, the compensation system comprising . . . a royalty system configured to allocate royalties due to the

licensor based at least in part on use of the testing devices and a royalty schedule; and a commission system configured to allocate compensation due entities responsible for distribution of nutritional products associated with or directed to altering levels of the selected molecular structure in the subjects tested.”

None of the references cited by the Examiner teaches or suggests the combination of features recited in amended claims 20. Particularly, none of the references teaches “a royalty system configured to allocate royalties due to the licensor based at least in part on use of the testing devices and a royalty schedule” nor “a commission system configured to allocate compensation entities responsible for distribution of nutritional products associated with or directed to altering levels of the selected molecular structure in the subjects tested.” Thus, claim 20, and claims depending therefrom, are patentable over the cited references.

Conclusion

This response is being submitted on or before June 24, 2010, with the required fee for a three-month extension of time, making this a timely response. It is believed that no additional fees are due in connection with this filing. However, the Commissioner is authorized to charge any additional fees, including extension fees or other relief which may be required, or credit any overpayment and notify us of same, to Deposit Account No. 04-1420.

This application now stands in allowable form and reconsideration and allowance are respectfully requested.

Respectfully submitted,

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